

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
PACIFIC GAS AND ELECTRIC
COMPANY,
Defendant.

Case No. 14-cr-00175-TEH

**ORDER RESETTING TRIAL AND
PRETRIAL CONFERENCE DATES;
SETTING DISCOVERY DEADLINE**

On March 7, 2016, the Court held a pretrial conference in this matter. Given the unsettled state of discovery, the Court had previously ordered that the parties come to the pretrial conference “prepared to provide the Court with a complete list of all further anticipated discovery disputes, if any, so that the Court can determine how best to ensure an orderly trial.” Dkt. No. 338.

The Government indicated in a pre-conference Status Report that it intended to file an additional request for a subpoena under Federal Rule of Criminal Procedure (“Rule”) 17(c). Dkt. No. 342. The Government has since filed that request. Dkt. No. 349. Defendant Pacific Gas and Electric Company (“PG&E”) indicated at the pretrial conference that it intends to file several of its own requests for Rule 17(c) subpoenas, as well as several additional discovery motions. PG&E explained that it could not specify how many discovery disputes remain, because it is still in the process of analyzing the many thousands of pages in discovery received from the Government over the last month. These additional and uncertain filings only build upon the Government’s February 24, 2016 Rule 17(c) request, the five discovery disputes PG&E filed on March 3, 2016, and

1 the additional motions *in limine* PG&E filed on March 4, 2016. Dkt. Nos. 312, 331-35,
2 339.

3 In light of the many unresolved issues, and the unsettled state of discovery, PG&E
4 argued at the pretrial conference that it had become impossible to try this case, as
5 scheduled, on March 22, 2016. PG&E therefore requested that the Court grant a three- or
6 four-week continuance of the trial. The Court agreed that it had become impossible to hear
7 and resolve the many outstanding issues in the waning days before trial, and therefore
8 granted PG&E's request to vacate the trial date. Dkt. No. 346. The Court took under
9 submission the question of how long the continuance must be to assure an orderly start to
10 the trial. *Id.*

11 The Court now finds that a five-week continuance is necessary to guarantee that the
12 many unresolved issues in this case are given full and fair consideration before the start of
13 trial. Accordingly, IT IS HEREBY ORDERED that the pretrial conference shall be held
14 on **April 11, 2016**, and the trial shall commence on **April 26, 2016**. The Court previously
15 excluded time under the Speedy Trial Act from March 9, 2015 through March 8, 2016, to
16 provide counsel sufficient time for pre-trial preparation. Dkt. No. 65. Based upon
17 PG&E's request for a continuance and for good cause shown, the Court finds that failing to
18 exclude the time between March 8, 2016 and April 26, 2016 would deny counsel the
19 reasonable time necessary to address the remaining disputes in this complex matter, and
20 likewise deny the Court the reasonable time necessary to resolve the remaining disputes.
21 18 U.S.C. §§ 3161(h)(7)(A), (h)(7)(B)(ii). The Court further finds that the ends of justice
22 served by excluding the time between March 8, 2016 and April 26, 2016 outweigh the best
23 interests of the public and the defendant in a speedy trial. 18 U.S.C. § 3161(h)(7)(A).
24 Accordingly, IT IS HEREBY ORDERED that the time between March 8, 2016 and April
25 26, 2016 shall be excluded from computation under the Speedy Trial Act. 18 U.S.C. §§
26 3161(h)(1)(D), (h)(7)(A), (h)(7)(B)(ii).

27 The Court must also guarantee that the parties do not again delay the start of trial by
28 filing yet more motions on the eve of the new trial date. It is therefore also necessary for

1 the Court to set a deadline for the filing of all outstanding issues. Accordingly, IT IS
2 HEREBY ORDERED that the remaining discovery disputes and Rule 17(c) requests
3 discussed above, and only those discussed above, shall be filed no later than **March 28,**
4 **2016.** No exceptions for the filing of additional motions will be considered.

5
6 **IT IS SO ORDERED.**

7
8 Dated: 03/14/16



THELTON E. HENDERSON
United States District Judge